

ARTICLE 2

LAND USE REVIEWS

10.2.000 OVERVIEW OF ARTICLE 2

This Article introduces the various review bodies in Forest Grove and provides general information and review criteria for most land use reviews. Criteria for other land use reviews, such as land divisions and planned developments, are included in other Articles. The following list summarizes topics covered in this Article.

- Review Bodies
- General Information on Land Use Reviews
- Adjustment
- Annexation
- Conditional Use
- Design Review
- Director's Interpretation
- Site Development Review
- Text Amendment
- Variance
- Zone Change

These headings can assist the user in locating information. The table of contents contains a complete list of the material included in this Article.

REVIEW BODIES

10.2.010 PURPOSE

This section assigns a review body to all land use reviews. It also specifies the procedure when more than one review is requested simultaneously.

10.2.020 ASSIGNMENT OF REVIEW AUTHORITY

Land use reviews are assigned to the review bodies stated below.

- A. Community Development Director. The Community Development Director (Director) has the authority to consider all land use reviews that are subject to Type I and Type II review procedures. The Director may delegate review and decision-making authority to planning staff.
- B. Planning Commission. The Planning Commission serves as the highest commission or board within the City of Forest Grove with respect to the review of land use permits. Where consideration of a landmark or significant tree registration or removal is part of another land use permit or legislative action requiring Planning Commission review, the consideration of the registration or removal shall be assigned to the Planning Commission as part of its public hearing process with recommendation from the Historic Landmarks Board or Community Forestry Commission. The Commission has the authority to consider land use reviews subject to Type III procedures. The Planning Commission also reviews Type IV legislative land use reviews and makes a recommendation to the City Council for a final decision.
- C. Hearings Officer. Pursuant to ORS 197.360-.380, an applicant may request that a Hearings Officer consider an Expedited Land Division review subject to Type III procedures. The applicant shall pay all extra costs associated with the Hearings Officer review.
- D. Historic Landmarks Board. Generally, the Historic Landmarks Board will consider matters related to historic resources. In some applications, the Historic Landmarks Board makes a recommendation for a final decision by the Planning Commission or City Council. The following land use reviews are assigned to the Historic Landmarks Board for at least an initial recommendation.
 - 1. Landmark designations, and the removal of landmark designations;
 - 2. Demolition review of landmarks and historic contributing buildings;
 - 3. Review of proposed work affecting the exterior of landmarks;
 - 4. New development in a historic district;
 - 5. Alterations, remodels, renovations or relocations of a historic landmark; and
 - 6. Alterations, remodels, renovations or relocations of a historic contributing building.

- E. Community Forestry Commission. Generally, the Community Forestry Commission will consider matters related to protected trees. The Community Forestry Commission is responsible for the designation of Register trees and the removal of a designated tree from the Register. The Community Forestry Commission will also consider permits for removal or major pruning of protected trees if the Director's review or decision is referred or appealed. The CFC will also review development project which impact protected trees if referred by the Director.
- F. Public Arts Commission. The Public Arts Commission will be responsible to review and make recommendations to the relevant decision making authority on any art proposed by a development where the art is visible to the public.
- G. City Council. The City Council is responsible for final decisions on plan amendments and zone changes and all land use reviews subject to Type IV procedures. All appeals of land use reviews subject to Type II and Type III procedures are also assigned to the City Council.

10.2.030 CONCURRENT REVIEWS

Applications for more than one land use review on a site may be consolidated into a single application package. If the reviews are not assigned to the same review body, they are assigned in the manner stated below.

- A. When more than one review is requested and the reviews have different procedures, the overall application is processed using the highest procedure and reviewed by the review body assigned to that procedure.
- B. When the requested reviews have the same procedure but are assigned different review bodies, the reviews may be processed simultaneously with a joint hearing before the applicable review bodies. For the purposes of this section, a joint hearing includes either holding a consolidated hearing before all applicable review bodies at the same meeting, or holding consecutive public hearings at the same location. The Director shall determine the manner of processing applications and conducting the hearings.

GENERAL INFORMATION ON LAND USE REVIEWS

10.2.050 INTRODUCTION

The Development Code uses a combination of nondiscretionary and discretionary reviews to evaluate land use proposals for compliance with the use and development requirements of the code. The nondiscretionary reviews provide the certainty needed in most situations by providing clear and objective criteria. Discretionary reviews provide needed flexibility by allowing more subjective criteria, and providing for the modification of regulations in response to specific site conditions.

10.2.060 FUNCTION OF REVIEW CRITERIA

- A. Review criteria set the bounds for the issues that must be addressed by the applicant and which may be raised by the City or affected parties.
- B. The review criteria have been derived from and are based on the Comprehensive Plan. Reviews using the goals and policies of the Comprehensive Plan are not required unless specifically stated.
- C. When review criteria refer to the request's meeting a specific threshold, such as adequate services, the threshold includes any proposed improvements, mitigation measures, or limitations. All proposed improvements, mitigation measures, and limitations must be identified prior to a final decision by a review body.

10.2.070 BURDEN OF PROOF

The burden of proof is on the applicant to show that all applicable review criteria are met.

10.2.080 CONDITIONS OF APPROVAL

The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.

10.2.090 RELATIONSHIP TO OTHER REGULATIONS

Approval of a land use application based on review criteria in this Code does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statutes or regulations.

ADJUSTMENT

10.2.100 PURPOSE

The adjustment process provides a mechanism by which the Director may make limited modifications to yard setback, height, and lot coverage standards. Adjustment reviews provide limited flexibility for unusual situations if the proposed development continues to meet the intended purpose of the regulations.

10.2.110 PROCEDURE

- A. Requests for changes of less than 10% of the setback, height, or lot coverage standard shall follow the Type II process.
- B. Requests for changes from 10%-20% percent of the setback, or lot coverage standard shall follow the Type II process.
- C. Requests for changes to standards other than setback, height, or lot coverage, or which are for more than 20% of the setback, height, or lot coverage standard are processed as variances under §10.2.700.

10.2.120 REVIEW CRITERIA

- A. Type I Adjustment Process
 - 1. The requested adjustment is for less than 10% of the setback, height or lot coverage standard; and
 - 2. Granting adjustment shall be consistent with the purpose of the affected zoning.
- B. Type II Adjustment Process
 - 1. The requested adjustment is from 10%-20% of the setback or lot coverage standard;
 - 2. Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified;
 - 3. If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area;
 - 4. If more than one adjustment is requested, the cumulative effect of the adjustments shall result in a project which is consistent with the overall purpose of the zone; and
 - 5. Any impacts resulting from the adjustment are mitigated to the extent practical.

ANNEXATION

10.2.150 PROCEDURE

Annexation shall be reviewed according to procedures in Chapter 3.09 of the Metro Code, Local Government Boundary Changes and applicable State of Oregon annexation regulations.

10.2.160 ASSIGNMENT OF ZONING DESIGNATIONS

Before an annexation application is deemed complete, the applicant shall initiate a zone change pursuant to §10.2.750 et. seq. Zoning of the property shall meet the review criteria in §10.2.770.

CONDITIONAL USE

10.2.200 PURPOSE

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. Conditional uses are subject to review because they may have adverse effects on the environment, overburden public services, change the desired character of an area, or create nuisances. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

Uses that require conditional use review are stated in the use tables of the zoning districts or in the regulations of overlay zones that apply to the site.

10.2.210 PROCEDURE

Conditional uses are reviewed under a Type II or Type III procedure. In addition to the requirements of this section, Conditional Uses are required to meet applicable site plan and design review requirements of this code (a separate application and fee is not required).

- A. New Conditional Use. A request for a new conditional use is reviewed under Type III procedures.
- B. Minor Modifications. A request for a minor modification to an approved conditional use may be reviewed provided the following criteria are met:
 - 1. The alteration does not violate any conditions of approval; and
 - 2. The individual or cumulative alterations will not increase the floor area or exterior improvement area by more than 20%; and
 - 3. The Director determines that there is a likelihood that the proposed modification would not result in noticeable impacts on adjacent properties.

If the request meets the above criteria, notice of the proposed request shall be sent consistent with a Type II process. If the department receives any negative response from the notices, then the applicant shall file for a conditional use permit as a new application to be reviewed by the Planning Commission.

- C. Major Modifications. All other alterations to the site or use will be reviewed under Type III procedures.

10.2.220 REVIEW CRITERIA

All of the following criteria must be met for approval of a new conditional use, or the major modification of an existing conditional use:

A. Physical Compatibility

1. The proposed use will be compatible with adjacent developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or
2. The proposed use will mitigate differences in appearance or scale through setbacks, screening, landscaping, and other design features.

B. Public Services

1. The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety; and
2. Public services for water supply, sanitary sewer, stormwater disposal, police and fire protection are capable of serving the proposed use and previously approved uses.

C. Livability

The proposed conditional use will not have significant adverse impacts on the livability of nearby lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and
2. Privacy and safety issues.

DESIGN REVIEW

10.2.300 PURPOSE

The purpose of Design Review is to:

- A. Establish guidelines and standards that will promote good neighborhood design;
- B. Encourage development that upholds property values and becomes a long-term asset to the community;
- C. Encourage creative and cost-effective building and site design; and
- D. Provide flexibility in the administration of development standards.

In addition to the requirements of this section, applications subject to design review are also subject to site development review as provided in §10.2.400 (a separate application and fee is not required).

10.2.310 APPLICABILITY

Design review is required for the following:

- A. New single family attached developments;
- B. New multi-unit developments;
- C. New commercial development;
- D. Alterations, remodels, or renovations of commercial development in the Town Center and Neighborhood Commercial zones which result in additional floor area of more than 400 square feet; and
- E. Alterations, remodels, or renovations of commercial development in all other Commercial zones which result in additional floor area of more than 1,000 square feet.
- F. New development in a historic district;
- G. Alterations, remodels, renovations or relocations of a historic landmark; and
- H. Alterations, remodels, renovations or relocations of a historic contributing building.

10.2.320 OVERVIEW OF PROCESS

Design review applications will be processed in one of two tracks: Development Standards or Design Guidelines. The applicant shall identify the desired tract as part of the initial application. The tracks are described as follows:

Track 1 -- Development Standards. Applications are required to meet the clear and objective development standards which are provided in the development code. These requirements are intended to be specific and directive. The purpose is to establish a baseline for site plan design which works in conjunction with other requirements of the development code.

Track 2 -- Design Guidelines. Applications allow more flexibility in terms of design. Under this process the applicant shall be held to the intent of the standards, but is allowed to vary from these standards if demonstrated that related guidelines and objectives are adequately addressed and that the deviation results in a higher quality development than would result under a strict interpretation of the code.

10.2.330 PROCEDURE

The design review applicant must select one of two design review tracks: (1) development standards track or the (2) design guidelines track. Depending upon the tract and specific characteristics of the project, these are reviewed under a Type II or Type III procedure, as described below.

A. Track 1 – Development Standards. Applications shall be reviewed under a Type II or III procedures as outlined below:

1. Type II Review. The Director is the review authority for the following Track 1 – Design Standards applications:

- a. Multifamily developments with 3 - 5 units; and
- b. Commercial alterations, remodels, renovation, and new construction of less than 10,000 square feet.

2. Type III Review. The Planning Commission is the review authority for the following Track 1 design review applications:

- a. Multifamily developments with more than six (6) units;
- b. Commercial alterations, remodels, renovation, and new construction of more than 10,000 square feet.; and
- c. Any Type II design review application elevated by the Director to the Type III procedure.

B. Track 2 – Design Guidelines. The review standards are intended to be flexible in nature. This process does not allow applicants to avoid any City requirements, but may provide alternative methods for meeting requirements. Track 2 applications shall be reviewed under a Type II or III procedures as outlined below:

1. Type II Review. The Director is the review authority for the following Track 2 design review applications:
 - a. Multifamily developments with 3 - 5 units; and
 - b. Commercial alterations, remodels, renovation, and new construction of less than 3,000 square feet.
2. Type III Review. The Planning Commission is the review authority for the following Track 2 design review applications:
 - a. Multifamily developments with more than six (6) units;
 - b. Commercial alterations, remodels, renovation, and new construction of more than 3,000 square feet; and
 - c. Any Type II design review application elevated by the Director to the Type III procedure.

10.2.340 SUBMITTAL REQUIREMENTS

In addition to the standard submittal requirements for a Type II or Type III application, and the submittal requirements of a Site Plan in §10.2.440, the following documents are required for Design Review. Plans shall be drawn to scale and fully dimensioned. At the pre-application conference, the Director may specify more detailed submittal requirements or waive specific submittal requirements if warranted.

- A. Architectural drawings, renderings, sketches and a materials board showing all elevations of proposed buildings as they will appear on completion.
- B. All existing and proposed walls and fences, including the location, height, type of design and composition.
- C. An open space plan showing the locations and dimensions of common and private open space, including active and passive recreational areas.

10.2.350 REVIEW CRITERIA

Projects subject to design review by the Director (Type II) or the Design Review Commission (Type III) shall be evaluated based on the following:

- A. The development standards of the applicable zoning district and any overlay district;
- B. The general development standards of Article 8.
- C. Departures from code requirements may be permitted as part of a Track 2 Design Review Process, when the following criteria are met:

1. The design guidelines contained in the applicable section of the “Design Guideline Handbook” are adequately addressed.
2. The applicant demonstrates that the overall development would result in a development that better meets the intent of the design guidelines than a design that simply meets the Code.

SITE DEVELOPMENT REVIEW

10.2.400 PURPOSE

The purpose of Site Development Review is to promote the general welfare and enhance the appearance and function of the City by careful attention to site planning.

While the underlying zoning district determines *whether* a particular use is permitted, site development review focuses on *how* a particular use will be developed. Site Development Review will focus primarily on site planning and design elements of a project.

10.2.410 APPLICABILITY

Site development review is required for the following:

- A. All new development of vacant sites (with the exception of the exemptions listed below);
or
- B. An expansion of 20% or more of the existing building square footage on the development site;
- C. A new parking lot or 20% expansion of an existing parking lot that is not associated with new commercial or multifamily development; or
- D. Any change of use (according to use table of applicable zoning district).
- E. As part of a Master Plan application (§10.4.100 et. seq).
- F. As part of a Conditional Use permit application (§10.2.200).
- G. As part of a Design Review application (§10.2.300 et. seq).

10.2.420 EXEMPTIONS

The following development is exempt from site development review:

- A. Home occupations
- B. Family day care
- C. Accessory structures

10.2.430 PROCEDURE

Site development review is categorized as a Type I procedure for one (1) single family detached dwelling on an individual lot; one (1) duplex on an individual lot; one (1) manufactured home on an individual lot. All other site development reviews shall follow the Type II procedure unless exempt.

10.2.440 SUBMITTAL REQUIREMENTS

In addition to the standard submittal requirements for a Type II application, the following plans and information are required for Site Development Review. The Director may waive specific submittal requirements at the pre-application conference, if warranted.

Site Development Plans shall be drawn to scale and fully dimensioned, and shall illustrate the following:

- A. Boundaries of the development site, with lot line dimensions and land area in square feet;
- B. Boundaries of lots adjacent to the development site, with general locations of existing buildings and driveways and description of current land uses;
- C. Existing contours of the development site at two (2) foot intervals for slopes of less than 10% and at ten (10) foot intervals for slopes of more than 10%. Additional contour data may be required by the Director for slopes greater than 20%.
- D. Major existing physical and natural features such as perennial and intermittent streams, wooded areas, marshes, rock outcroppings, and vegetative cover types;
- E. Environmental resource areas subject to the provisions in §10.8.305 and, where applicable, §10.5.005 et. seq. and environmental hazard areas subject to the requirements in §10.8.310.
- F. Individual trees or groves of trees subject to the provisions of §10.5.100 et. seq.
- G. Historic Landmarks subject to the provisions of §10.5.200 et. seq.
- H. Location, dimensions and heights of existing and / or proposed structures, including area in square feet and designation of existing and/or proposed use;
- I. Setback dimensions from buildings to lot lines and lot coverage as a percentage of total lot size;
- J. Location and dimensions of existing and/or proposed streets, driveways, transit facilities, sidewalks, trails, off-street parking and loading space, bicycle parking facilities, landscaped areas, recreation areas, and trash storage areas;

- K. Location of existing utilities and fire hydrants adjacent to the site, including the size of storm sewer, sanitary sewer and water lines;
- L. Location and names of public street, parks, utility rights-of-way and easements within or adjacent to the site;
- M. Location and types of proposed drainage, water and sewer facilities to serve the development;
- N. Elevation drawings of proposed buildings;
- O. Landscape plan depicting existing and proposed trees, shrubs, groundcover, irrigation and architectural features such as fences or walls. Proposed plantings shall be designated as to species, quantities, and size at time of planting;
- P. Location, character and dimensions of proposed signs and lighting; and
- Q. Locations and dimensions of all existing and proposed outdoor storage areas, including but not limited to trash storage and recycling areas.

10.2.450 REVIEW CRITERIA

The Director shall review and approve, conditionally approve, or deny the site development plan based on the following criteria:

- A. The site development plan complies with all applicable standards of the base zoning district, any overlay district, and the applicable general development standards of Article 8.
- B. The site development plan ensures reasonable compatibility with surrounding uses as it relates to the following factors:
 - 1. Building mass and scale do not result in substantial visual and privacy impacts to nearby residential properties; and
 - 2. Proposed structures, parking lots, outdoor use areas or other site improvements that could cause substantial off-site impacts such as noise, glare and odors are oriented away from nearby residential uses and/or adequately mitigated through other design techniques.
- C. The site development plan preserves or adequately mitigates impacts to unique or distinctive natural features including, but not limited to:
 - 1. Significant on-site vegetation and trees;
 - 2. Prominent topographic features; and

3. Sensitive natural resource areas such as wetlands, creek corridors and riparian areas.
- D. The site development plan preserves or adequately mitigates impacts to designated historic resources.
 - E. The site development plan provides adequate right-of-way and improvements to abutting streets to meet the street standards of the City. This may include, but not be limited to, improvements to the right-of-way, sidewalks, bikeways, and other facilities needed because of anticipated vehicular and pedestrian traffic generation.
 - F. The site development plan promotes safe, attractive and usable pedestrian facilities that connect building entrances, public sidewalks, bicycle and auto parking spaces, transit facilities, and other parts of a site or abutting properties that may attract pedestrians.

DIRECTOR'S INTERPRETATION

10.2.500 PURPOSE

It is expected that some terms or phrases within the Code may be ambiguous and may therefore have two or more reasonable meanings. Because it is not possible to identify or remove all ambiguities in the Code, the following process has been established for resolving these ambiguities. This process may be requested as a separate and individual action, or in advance of or concurrent with applying for a land use permit or other action.

The Director's interpretation process is also followed for determining Unlisted Use: Authorization of Similar Use requests (§10.12.160).

For the purposes of this section, the term "interpretation" applies to all of the Director's formal, written interpretations made consistent with the provisions of this section and Unlisted Use: Authorization of Similar Use requests (§10.12.160). Any interpretation may be appealed to the Planning Commission as provided below.

10.2.510 PROCEDURE

- A. Requests. A request for an interpretation shall be made in writing on the proper form and submitted to the Director.
- B. Decision to issue. The Director shall have the authority to consider the request for an interpretation. The Director shall respond within fourteen (14) days after the request is made and indicate whether or not the Director will issue the requested interpretation.
- C. Director may decline. The Director is authorized to issue or decline to issue a requested interpretation. The Director's decision to issue or decline to issue an interpretation is final when such decision is mailed to the party requesting the interpretation.
- D. Written interpretation. If the Director decides to issue an interpretation as requested, it shall be made within fourteen (14) days, labeled as a "Director's Interpretation" and shall be mailed to the person requesting the interpretation and to any other person that has specifically requested, in writing, a copy of such interpretation. Failure to receive the interpretation shall not invalidate the decision if the interpretation was sent to the address provided by the interested party.
- E. Appeal to Planning Commission. The applicant and any party who received notice of the interpretation or a determination not to make an interpretation may appeal to the Planning Commission within fourteen (14) days after the determination was mailed to the applicant. The appeal may be initiated by filing a notice of appeal with the Director.
- F. Final Decision. The Planning Commission shall consider the appeal of the interpretation at a public hearing. Notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who has specifically

requested notice. The decision of the City Council on an appeal of an interpretation shall be final when it is mailed to the applicant.

- G. Interpretations on file. The Director shall keep a record of all interpretations on file in the Department of Community Development.

DEVELOPMENT CODE TEXT AMENDMENT

10.2.600 PURPOSE

The Forest Grove Comprehensive Plan will be amended from time to time to keep it consistent with the changing needs and desires of the community. It may also be necessary to amend the text of this Code to implement the goals and policies of the Comprehensive Plan and to comply with regional and statewide plans and programs.

This section provides standards and criteria for amending the text of the Development Code. The process for amending the Comprehensive Plan is different and is discussed in that document.

10.2.610 INITIATING A TEXT AMENDMENT

Amendments to the Development Code text may be initiated by the Director, the Planning Commission, or by the City Council. Any person may request that the Director or Planning Commission initiate a text amendment. Text amendments initiated by a review body are made without prejudice toward the final outcome.

10.2.620 PROCEDURE

Text amendments are reviewed under the Type IV legislative procedure. Text amendments are adopted by ordinance and require final action by the City Council.

10.2.630 REVIEW CRITERIA

- A. The text amendment is consistent with relevant goals and policies of the Forest Grove Comprehensive Plan;
- B. The text amendment is consistent with relevant statewide and regional planning goals, programs and rules.

VARIANCE

10.2.700 PURPOSE

The variance procedure is intended to allow modification of specific standards contained in the Development Code. Requests to modify a yard setback, height or lot coverage standard by 20% or less are processed as Adjustments. The variance procedure is used when an applicant is requesting modification of more than 20% of a yard setback, height, or lot coverage standard, or modification of a standard not qualified for an Adjustment under §10.2.100. Requests for variances from the Floodplains and Flood Management Areas provisions of §10.8.315 shall be considered pursuant to §10.8.330 Variance Procedure.

The following regulations of the Development Code are not eligible for a variance:

- A. The uses permitted in the zoning district.
- B. Definitions.
- C. The minimum and maximum residential density allowed in a zoning district.
- D. Restrictions on uses or development that contain the word “Prohibited”.
- E. A change in established procedures.

A variance may be permitted if the review authority finds that the applicant has complied with all review criteria.

10.2.710 PROCEDURE

Variances are reviewed under the Type III procedure.

10.2.720 REVIEW CRITERIA

- A. The need for the variance does not result from prior actions of the applicant or owner, or from personal circumstances of or caused by the applicant or owner, such as financial circumstances;
- B. To meet the need, the request is the minimum necessary variation from the Code requirement; and
- C. The circumstances that apply to the site do not typically apply to other properties in the same vicinity or zoning district and are unique or unusual.

ZONE CHANGE

10.2.750 PURPOSE

Changes in the Official Zoning Map may be needed over time to implement the Forest Grove Comprehensive Plan, to assign zoning to recently annexed properties, comply with regional and statewide goals and rules, and to respond to changes in local circumstances and development patterns.

This section provides standards and criteria for amending the Zoning Map. The process for amending the Comprehensive Plan Map is different and is discussed in that document.

10.2.760 PROCEDURE

- A. Quasi-Judicial. Requests for a quasi-judicial zone change are reviewed under the Type III procedure. Quasi-judicial zone changes involve a single property or small number of properties.

Unlike other Type III procedures, the decision of the Planning Commission on a quasi-judicial zone change shall be in the form of a recommendation to the City Council. The City Council shall hold another public hearing and make the final decision.

- B. Legislative. Requests for a legislative zone change are reviewed under the Type IV procedure. Legislative zone changes involve numerous properties or broad geographic areas of the City.

10.2.770 REVIEW CRITERIA

- A. The zone change is consistent with the Comprehensive Plan Map. When the Comprehensive Plan has more than one implementing zone as shown on the Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.
- B. The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.
- C. The site is suitable for the proposed zone and there is a lack of appropriately designated alternative sites within the vicinity. The size of the vicinity will be determined on a case-by-case basis since the impacts of a proposed zone and its potential uses vary. The factors to be considered in determining suitability are parcel size and location.
- D. The zone change is consistent with the adopted Transportation System Plan. Development allowed by the zone change will not substantially impact the functional classification or operation of transportation facilities, or reduce the level of service of transportation facilities below the minimum acceptable level identified in the Transportation System Plan. To ensure proper review and mitigation, a traffic impact

study may be required for the proposed zone change if it may impact transportation facilities.

- E. Public facilities and services for water supply, sanitary waste disposal, stormwater disposal, and police and fire protection are capable of supporting the uses allowed by the zone. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands.
- F. The establishment of a zone district is not subject to the meeting of conditions.

DEVELOPMENT AGREEMENTS

10.2.800 PURPOSE

The purpose of a Development Agreement is to implement the goals, policies or programs of the Comprehensive Plan, the requirements of the Development Code or another City code, or a condition of an approved land use permit, or for the development of land. This section provides the process, standards and criteria for the review of a development agreement.

10.2.810 APPLICABILITY

The City may enter into a development agreement with any person having a legal or equitable interest in real property for the development of that property. The contents, review and approval of a development agreement shall comply with the requirements of ORS 94.504 to 94.528 as well as the City's requirements.

10.2.820 PROCESS

Every request for a development agreement shall:

- A. Conduct a pre-application review to identify and discuss all business terms of the agreement with staff.
- B. Conduct a formal review of a development agreement following Type IV procedures.

10.2.830 SUBMITTAL REQUIREMENTS

- A. Pre-application Submittal Requirements. The party interested in negotiating a development agreement with the City shall submit the following as part of the preapplication review:
 - 1. Completed pre-application form signed by the interested party;
 - 2. A text outlining the proposed business terms to be included in the agreement;
 - 3. A scaled map and vicinity map showing the boundaries of the subject property and the location of the property, respectively;
 - 4. Any other graphic or written material that clarifies or describes the proposed terms of the agreement; and
 - 5. All required fees.
- B. Application Submittal Requirements. The following information is required for a development agreement request:
 - 1. A completed application form signed by a person having legal or equitable interest in the subject property identified on the application form;
 - 2. Documentation showing that the applicant has legal or equitable interest in the property;

3. A list of the names and addresses of all other persons, corporations or other parties holding legal or equitable interest in the subject property;
4. The proposed development agreement in sufficient detail to enable the Community Development Director to review it for compliance with this Code and applicable state law;
5. Any attendant graphic or written material that clarifies or describes the proposed terms of the agreement. This material shall be in a form approved by the Community Development Director through the pre-application process;
6. Site Plan in conformance to §10.2.400, fully dimensioned at a scale to be determined by the Director which includes the following:
 - a. boundaries of the property with dimensions and land area in square feet; location of the subject site; and
 - b. any other information deemed by the Community Development Director necessary for the review and evaluation of the proposed agreement; and
7. All required fees.

10.2.840 REVIEW CRITERIA

A development agreement shall be reviewed by the Planning Commission and City Council and approved, approved with modifications or denied based on the following criteria:

- A. The agreement complies with the requirements of ORS 94.504 to 94.528;
- B. The agreement meets the intent of the purpose statement;
- C. The agreement furthers the public interest;
- D. The agreement results in development or improvements that would not have a substantial adverse impact on adjacent properties;
- E. The agreement complies with all relevant City codes and requirements; and
- F. The agreement would result in development or improvements that can be accommodated by adequate transportation, police, fire, stormwater, sewer and water facilities and services.